

2021

R21-195

Arizona Secretary of State  
Administrative Rules Division  
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R21-195

SECRETARY OF STATE

2021 OCT 15 PM 2:36

FILED

AGENCY RECEIPT

NOTICE OF DOCKET OPENING

1. Agency name:

Industrial Commission of Arizona

2. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, in numerical order:

Article, Part, or Section Affected (as applicable)   Rulemaking Action

R20-5-602.02

New Section

R21-195

SECRETARY OF STATE

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**NOTICE OF RULEMAKING DOCKET OPENING**  
**INDUSTRIAL COMMISSION OF ARIZONA**

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|---|---|
| <b><u>1. Title and its heading:</u></b>             | 20, Commerce, Financial Institutions, and Insurance |
| <b><u>Chapter and its heading:</u></b>              | 5, Industrial Commission of Arizona                 |
| <b><u>Article and its heading:</u></b>              | 6. Occupational Safety and Health Standards         |
| <b><u>Part and its heading (if applicable):</u></b> | Subpart U; COVID-19 Healthcare Standards            |
| <b><u>Section numbers:</u></b>                      | R20-5-602.02  |

**2. The subject matter of the proposed rule:**

The Federal Occupational Safety and Health Act of 1970 requires state-administered occupational safety and health programs to adopt standards that are “at least as effective” as standards adopted by the United States Department of Labor, Occupational Safety and Health Administration (“OSHA”). 29 U.S.C. § 667(c); see also 29 C.F.R. §§ 1902.4 & 1953.5; A.R.S. § 23-405(3). The Industrial Commission of Arizona (the “Commission”) is proposing to adopt new section R20-5-602.02 (“Subpart U, COVID-19 Healthcare”) to incorporate by reference the OSHA interim final rule published on June 21, 2021, titled “Occupational Exposure to COVID-19; Emergency Temporary Standard; Interim Final Rule” (the “COVID-19 Healthcare Rule”); published in the Federal Register at 86 FR 32,376 (available at <https://www.federalregister.gov/documents/2021/06/21/2021-12428/occupational-exposure-to-covid-19-emergency-temporary-standard>). The standard is also published in the Code of Federal Regulations at 29 C.F.R. § 1910(U), available at <https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XVII/part-1910/subpart-U?toc=1>.

According to the Federal Occupational Safety and Health Administration (“OSHA”), the COVID-19 Healthcare Rule is designed to protect healthcare and healthcare support service workers from occupational exposure to COVID-19 in settings where people with COVID-19 are reasonably expected to be present. During the period the standard is in effect, covered healthcare employers will be required to develop and implement a COVID-19 plan to identify and control COVID-19 hazards in the workplace. Covered employers will also be required to implement other measures to reduce transmission of COVID-19 in workplaces, related to the following: patient screening and management; standard and transmission-based precautions; personal

protective equipment, including facemasks or respirators; controls for aerosol-generating procedures; physical distancing of at least six feet, when feasible; physical barriers; cleaning and disinfection; ventilation; health screening and medical management; training; anti-retaliation; recordkeeping; and reporting. According to OSHA, the standard also encourages vaccination by requiring employers to provide reasonable time and paid leave for employee vaccinations and any side effects. It also encourages use of respirators, where respirators are used in lieu of required facemasks, by including a mini respiratory protection program that applies to such use. The standard exempts from coverage certain workplaces where all employees are fully vaccinated and individuals with possible COVID-19 are prohibited from entry; and it exempts from some of the requirements of the standard fully vaccinated employees in well-defined areas where there is no reasonable expectation that individuals with COVID-19 will be present.

**3. A citation to all published notices relating to the proceeding:**

Notice of Proposed Rulemaking: 27 A.A.R. XXXX [editor to fill in] (*in this issue*)

**4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Jessie Atencio, Director  
Address: Division of Occupational Safety and Health  
Industrial Commission of Arizona  
800 W. Washington St., Suite 203  
Phoenix, AZ 85007  
Telephone: (602) 542-5795  
Fax: (602) 542-1614  
E-mail: [Jessie.atencio@azdosh.gov](mailto:Jessie.atencio@azdosh.gov)

**5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

The Industrial Commission will accept written comments during a public comment period that will be noticed in the Notice of Proposed Rulemaking. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

**6. A timetable for agency decisions or other action on the proceeding, if known:**

To be determined.